

## Federal Housing Enterprise Oversight

## § 1704.41

to collect the debt from the employee's current pay account.

(3) *Review.* OFHEO is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

(4) *Employees who transfer from one paying agency to another agency.* If, after the creditor agency has submitted the debt claim to OFHEO, the employee transfers to another agency before the debt is collected in full, OFHEO must certify the total amount collected on the debt. One copy of the certification shall be furnished to the employee and one copy shall be sent to the creditor agency along with notice of the employee's transfer. If OFHEO is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the requirements set forth herein and in 5 CFR part 550, subpart k, have been met.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

### § 1704.30 Interest, penalties, and administrative costs.

Where OFHEO is the creditor agency, OFHEO shall assess interest, penalties, and administrative costs pursuant to 31 U.S.C. 3717 and the FCCS.

### § 1704.31 Refunds.

(a) Where OFHEO is the creditor agency, OFHEO shall promptly refund any amount deducted under the authority of 5 U.S.C. 5514 when:

(1) OFHEO receives notice that the debt has been compromised or otherwise found not to be owing to the Federal Government; or

(2) An administrative or judicial order directs OFHEO to make a refund.

(b) Unless required by law or contract, refunds under this section shall not bear interest.

### § 1704.32 Request from a creditor agency for the services of a hearing official.

(a) OFHEO may provide qualified personnel to serve as hearing officials

upon request of a creditor agency when—

(1) The debtor is employed by OFHEO and the creditor agency cannot provide a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement; or

(2) The debtor is employed by the creditor agency and that agency cannot arrange for a hearing official.

(b) Services provided by OFHEO to creditor agencies under this section shall be provided on a fully reimbursable basis pursuant to 31 U.S.C. 1535.

[64 FR 34969, June 30, 1999. Redesignated and amended at 65 FR 81328, Dec. 26, 2000]

### § 1704.33 Non-waiver of rights by payments.

A debtor's payment, whether voluntary or involuntary, of all or any portion of a debt being collected pursuant to this subpart B shall not be construed as a waiver of any rights that the debtor may have under any statute, regulation, or contract, except as otherwise provided by law or contract.

### §§ 1704.34–1704.39 [Reserved]

## Subpart C—Administrative Offset

### § 1704.40 Authority and scope.

OFHEO may collect a debt owed to the Federal Government from a person, organization, or other entity by administrative offset, pursuant to 31 U.S.C. 3716, where:

(a) The debt is certain in amount;

(b) Administrative offset is feasible, desirable, and not otherwise prohibited;

(c) The applicable statute of limitations has not expired; and

(d) Administrative offset is in the best interest of the Federal Government.

### § 1704.41 Administrative offset prior to completion of procedures.

Prior to the completion of the procedures described in § 1704.42, OFHEO may effect administrative offset if failure to offset would substantially prejudice its ability to collect the debt, and if the time before the payment is to be made does not reasonably permit completion of the procedures described in